

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

MAR 21 2007

at 8 o'clock and 50 min. A M  
SUE BEITIA, CLERK

SPORTS SHINKO CO., LTD.,	)	CV 04-00124 ACK-BMK
Plaintiff,	)	CV 04-00125 ACK-BMK
	)	CV 04-00126 ACK-BMK
vs.	)	CV 04-00127 ACK-BMK
	)	CV 04-00128 ACK-BMK
QK HOTEL, LLC, et al.,	)	
Defendants,	)	CONSOLIDATED CASES
	)	
and	)	
	)	
FRANKLIN K. MUKAI, et al.,	)	
Third-Party Plaintiffs,	)	
	)	
vs.	)	
	)	
SPORTS SHINKO (USA) CO., LTD., et	)	
al.,	)	
Third-Party Defendants,	)	
	)	
and	)	
	)	
SPORTS SHINKO (HAWAII) CO., LTD.,	)	
et al.,	)	
Third-Party Defendants/	)	
Counterclaimants,	)	
	)	
vs.	)	
	)	
QK HOTEL, LLC, et al.,	)	
Third-Party Counterclaim	)	
Defendants.	)	
	)	
AND CONSOLIDATED CASES	)	
	)	

NOTICE

In late January of this year my tax advisor suggested  
that I purchase some units in a tax free high yield municipal

fund managed by Goldman Sachs. I did buy \$50,000 of units in that fund on February 1, 2007. Only very recently did I recall that Plaintiffs Sports Shinko entities had been purchased out of bankruptcy by a subsidiary of Goldman Sachs, Southwind Realty Finance Cayman Co.

Section 455(b)(4) of Title 28 of U.S.C. provides that a judge shall disqualify himself if he has "a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding." And Section 455(a) provides that a judge shall disqualify himself in any proceeding in which "his impartiality might reasonably be questioned."

While I do not feel that my investment in a fund managed by Goldman Sachs constitutes a financial interest in Goldman Sachs or could be substantially affected by the outcome of these proceedings, nor do I believe it is otherwise a basis for disqualification; I nevertheless felt it appropriate to disclose the matter to the parties. Moreover, the investment definitely would not affect any decision I may make in these proceedings or my impartiality in any way.

I request that each party submit a written response to this Notice by Tuesday, March 20, 2007, stating their respective position whether or not they feel I should be disqualified from these proceedings, and, if so, the reason therefore, and

otherwise waiving any basis for disqualification on the issue of whether my impartiality might reasonably be questioned.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, MAR 21 2007.

  
\_\_\_\_\_  
Alan C. Kay  
Sr. United States District Judge